

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

NICE SYSTEMS, INC. and
NICE SYSTEMS, LTD.,

Plaintiffs,

v.

WITNESS SYSTEMS, INC.

Defendant.

Civil Action No. 06-311-JJF

**WITNESS SYSTEMS, INC. MOTION FOR PARTIAL
SUMMARY JUDGMENT ON LACK OF WILLFUL INFRINGEMENT**

Comes now Witness Systems, Inc. (“Witness”), and by and through its attorneys, pursuant to Rule 56 of the Federal Rules of Civil Procedure, moves the Court to grant it partial summary judgment by dismissing Plaintiffs claims for damages based on willful infringement.

This Motion is based on the Memorandum in Support of Witness’ Motion for Partial Summary Judgment on Lack of Willful Infringement filed contemporaneously herewith, on the documents submitted as exhibits thereto, on the pleadings in this civil action, and on such further evidence and argument as the Court may receive prior to its decision.

Dated: November 2, 2007

FISH & RICHARDSON P.C.

By: /s/ Kyle Wagner Compton

William J. Marsden, Jr. (#2247)

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ATTORNEYS FOR DEFENDANT

WITNESS SYSTEMS, INC.

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of November, 2007, I electronically filed with the Clerk of Court the **WITNESS SYSTEMS, INC. MOTION FOR PARTIAL SUMMARY JUDGMENT ON LACK OF WILLFUL INFRINGEMENT** using CM/ECF which will send electronic notification of such filing(s) to the below-listed Delaware counsel. In addition, the filing will also be sent via hand delivery.

Josy W. Ingersoll
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*Attorneys for Plaintiffs
Nice Systems Ltd. and Nice Systems, Inc.*

I also certify that on November 2, 2007, I have sent by electronic mail and U.S. First Class Mail, the document(s) to the following non-registered participants:

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Robert R. Laurenzi
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Nice Systems Ltd. and Nice Systems, Inc.*

/s/Kyle Wagner Compton
Kyle Wagner Compton

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**WITNESS SYSTEMS, INC. STATEMENT ACCOMPANYING ITS MOTION FOR
PARTIAL SUMMARY JUDGMENT ON LACK OF WILLFUL INFRINGEMENT**

Pursuant to the Court's Memorandum Order on Summary Judgment Procedure, Witness Systems, Inc. hereby certifies that no genuine issues of material fact exist with respect to the facts recited in support of its Motion for Partial Summary Judgment on Lack of Willful Infringement.

Dated: November 2, 2007

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/s/Kyle Wagner Compton

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